



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,629	08/21/2001	Martin A. Kapp	Q962-DB	8657

31718 7590 09/09/2004

BELASCO, JACOBS & TOWNSLEY LLP
HOWARD HUGHES CENTER
6100 CENTER DRIVE
SUITE 630
LOS ANGELES, CA 90045

EXAMINER

MCCLELLAN, JAMES S

ART UNIT PAPER NUMBER

3627

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,629

Applicant(s)

KAPP, MARTIN A. *gt*

Examiner

James S McClellan

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,009,408 (hereinafter "Buchanan") in view of Internet Publication "200 Per Diem Amounts" by Vernon Hoven (hereinafter "Hoven").

Regarding **claim 1**, Buchanan discloses a system (see Figure 1) for determining travel deductions for taxpayers who stay overnight in cities remote from their homes as part of their employment (see column 4, lines 32-42), comprising: a table identifying allowed per diem expense rates for a given tax year (see column 1, lines 46-49); means for inputting and maintaining data in said table (it is inherent that per diem data is inputted); means for inputting cities visited and durations of stay for a taxpayer (see column 1, lines 44; "travel itinerary information"); means for inputting expense reimbursements received from the taxpayer's employer (see column 3, lines 27-30); means for calculating a total of all per diem expenses based upon the per diem and number of days stayed in said cities (see column 5, lines 3-7); and means for offsetting the reimbursements against said total to determine an incidental expense allowance (see column 5, lines 3-7); [**claim 2**] a client information table including a taxpayer's profile information (see column 1, lines 66-67); [**claims 3-4**] an airplane table information (see

Art Unit: 3627

airline flight information in column 7, line 7); [**claims 5-6, 8, 10-11**] IRS table information (see column 4, lines 32-34); [**claim 7**] zip code table information (it is inherent that zip code information is available from travel itineraries).

Buchanan fails to explicitly disclose the use of IRS per diems based on the traveler's destination city.

Hoven teaches that the IRS allows per diems based on a traveler's destination city (see Page 1, "Option 2").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Buchanan based on the per diem allowances taught by Hoven, because tax related expense allowances is controlled by the IRS's current rules.

3. Claims 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan in view of Hoven as applied to claims 1-11 above, and further in view of Official Notice.

Regarding **claims 12-21**, Buchanan in combination with Hoven disclose all the claimed elements as set forth above but fail to explicitly disclose using a shipping or sailor travel itinerary. As noted above, Buchanan clearly discloses using a travel itinerary and specifically provides an example related to air travel. The Examiner takes Official Notice that it old and well known for sailors to have travel logs (travel itineraries) like those disclose in Buchanan for air travel.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Buchanan's modified device with shipping/sailor travel itineraries as is well known in the art, because travel by boat is analogous to traveling by air and that additional

Art Unit: 3627

feature will broaden the scope of the potential travelers that can benefit from the IRS reporting function of Buchanan.

Regarding **claim 22**, Buchanan in combination with Hoven disclose all the claimed elements as set forth above but fail to explicitly disclose assigning tasks to employees based on an employees skill level.

Once again, the Examiner takes Official Notice that assigning tasks to employees based on skill level is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Buchanan's modified device with assigning tasks based on an employee's skill level as is old and well known in the art, because assigning tasks based on skill level maximizes the effectiveness of the employees by concentrating employee skill on similar tasks.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Shoolery et al. is cited of interest for disclosing a corporate travel controller.

Bingham et al. is cited of interest for disclosing a meeting site selection based on all-inclusive meeting cost.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

Art Unit: 3627

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 872-9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


James S. McClellan
Primary Examiner
A.U. 3627

jsm
September 7, 2004